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ONGOING DISCUSSIONS ON INTELLECTUAL PROPERTY RIGHTS IN URUGUAY ROUND OF GATT NEGOTIATIONS

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1. Global environmental problems could perhaps be solved by appropriate counterstrategies. Such strategies imply the necessity to ease the conditions for the developing countries' access to capital resources, technologies and know how, and the conditions under which these can be transferred to developing countries. From that angle, one may also assess the eventual future outcome of the Uruguay Round of Multilateral Trade Negotiations including those on trade-related aspects of intellectual property rights (TRIPs), within the framework of the General Agreement on Tariffs and Trade (GATT).

2. Intellectual property rights (IPRS) are at the core of every technology, including environment-related technologies. In the Uruguay negotiations there is a clear conflict of interests between technology-rich and technology-poor countries. The former group are interested in increased protection for IPRs, while the latter do not want this increased.

3. During the negotiations, specific comments were made about standards and principles governing the availability, scope, and application of trade-related IPR's, calling for internationally agreed minimum standards and principles for their protection. The effect of such a proposal would be an increase in international protection for IPRs. It was suggested that the authority to control imports and exports of goods that infringe IPRs be extended to customs authorities and that there be a curb on alleged infringements stemming from the tendency for developing countries to adopt a process patent system instead of a product patent system. Safeguards on the acquisition and maintenance of IPRs were to be upgraded by strengthening GATT-based rules and principles. Effective action at borders by customs authorities against infringements, as well as remedies against domestic production and sale of counterfeit goods were called for.

4. The specifically environment-related technologies or IPRs were not discussed. What gives rise to special concern is the role of developing countries in world development and global environmental protection. For those countries to choose ecologically sound development means additional costs in the short term. Moreover, with the advances in biotechnologies, it had been realized that genetic resources would be one of the most important elements for future world development. Nowadays genetic resources are treated as public goods, without real commercial value. They may acquire potential economic value, provided that gene-rich countries, which are mainly developing countries, have access to technologies that will enable them to commercialize this resource. The greater the probability of access to such technologies at a lower cost, the better the chances of realizing the economic value of countering the diminution of biological diversity.

5. As far as environment-related technologies are concerned, the likely outcome of the Uruguay Round on TRIPs will be to increase the cost of the access to and transfer of such technologies, if they are to be appropriate on a commercial basis. The strengthened monopolistic position of the IPRs' owner will enable an increase in the price of environment-related technologies and limit the possibility of acquiring the technology from secondary sources. Moreover, imitation will be difficult, as it infringes IPRs and will be subjected to greater international control. Measures against trade in counterfeit goods may decrease the opportunities for international trade in

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products that have been developed through indigenous research and development activities. This, in turn, may restric the economically viable scale of production and increase the costs per unit. In addition, some countries mayhave doubts about using environmentally sound technologies that will increase the unit cost of production and further erode the competitive edge of the producer.

6. The above-mentioned practices, if induced by the eventual final outcome of the GATT negotiations on TRIPs, may decrease the developing countries' interest in preservation of biological diversity.